

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BEN J. MARTIN, et al.,

Plaintiffs,

-against-

OUTBRAIN INC., et al.,

Defendants.

23-CV-9204 (DEH)

ORDER

DALE E. HO, United States District Judge:

Plaintiff Ben J. Martin appears *pro se* and asserts claims for damages on behalf of himself and Plaintiff Nubai Ventures Inc. (“Nubai”).¹ For the reasons discussed below, the Court grants Plaintiff Nubai leave to show the Court, by the filing of a notice of appearance, that it is being represented in this action by an attorney. In the alternative, the Court grants Plaintiff Martin 30 days’ leave to show cause, by declaration, why he is permitted to assert claims in this action on behalf of Plaintiff Nubai *pro se*.

DISCUSSION

The statute governing appearances in federal court, 28 U.S.C. § 1654, “allow[s] two types of representation: ‘that by an attorney admitted to the practice of law by a governmental regulatory body, and that by a person representing himself.’” *Lattanzio v. COMTA*, 481 F.3d 137, 139 (2d Cir. 2007) (quoting *Eagle Assocs. v. Bank of Montreal*, 926 F.2d 1305, 1308 (2d Cir. 1991)). A nonlawyer cannot bring suit on behalf of another entity. *See United States ex rel. Mergent Servs. v. Flaherty*, 540 F.3d 89, 92 (2d Cir. 2008); *Iannaccone v. Law*, 142 F.3d 553, 558 (2d Cir. 1998). While “some courts allow sole proprietorships to proceed *pro se* [because] a sole

¹ The fees to bring this action have been paid, and the Clerk of Court has issued summonses.

proprietorship has no legal existence apart from its owner," *Lattanzio*, 481 F.3d at 140 (citation omitted), courts generally do not allow corporations, partnerships, associations, and other artificial entities to appear in court without an attorney, *Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 202-03 (1993); see *Iannaccone* 142 F.3d at 558.

Plaintiff Martin neither alleges that he is an attorney, nor specifies that Plaintiff Nubai is his sole proprietorship; he seems to assert that Plaintiff Nubai is a corporation by including, with its name, an abbreviation indicating that it is incorporated (inc.). See Dkt. No. 1, at 1, 3. If Plaintiff Nubai is actually a corporation, or if it is constituted in any other form of an artificial entity, other than as Plaintiff Martin's sole proprietorship, Plaintiff Martin is not permitted to assert claims on behalf of it *pro se*, and it must be represented by an attorney in this action. Accordingly, the Court grants Plaintiff Nubai leave to show the Court, by the filing of a notice of appearance, that it is being represented by an attorney in this action. In the alternative, the Court grants Plaintiff Martin leave to show cause, by declaration, why he is permitted to assert claims in this action on behalf of Plaintiff Nubai *pro se*.

CONCLUSION

The Court grants Plaintiff Nubai 30 days' leave to show the Court, by the filing of a notice of appearance, that it is being represented by an attorney in this action or to file a declaration that explains why Plaintiff Martin is permitted to assert claims in this action on behalf of Plaintiff Nubai *pro se*. Plaintiffs shall file the required notice of appearance or declaration by **December 1, 2023**. A declaration form is attached to this order for Plaintiff Martin's convenience. Defendants need not respond to this action until directed by the Court.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: October 27, 2023
New York, New York



DALE E. HO
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the first and last name of each plaintiff or petitioner.

Case No. _____ CV _____
-against-

Write the first and last name of each defendant or respondent.

DECLARATION

Briefly explain above the purpose of the declaration, for example, "in Opposition to Defendant's Motion for Summary Judgment," or "in Response to Order to Show Cause."

I, _____, declare under penalty of perjury that the following facts are true and correct:

In the space below, describe any facts that are relevant to the motion or that respond to a court order. You may also refer to and attach any relevant documents.

Attach additional pages and documents if necessary.

Executed on (date)

Signature

Name _____

Prison Identification # (if incarcerated)

Address

City

State

Zip Code

Telephone Number (if available)

E-mail Address (if available)